

Appln No.: 10/524,122
Amendment Dated: September 19, 2006
Reply to Office Action of June 20, 2006

REMARKS/ARGUMENTS

This is in response to the Office Action mailed June 20, 2006 for the above-captioned application. Reconsideration and further examination are respectfully requested.

The claims have been amended in view of the Examiner's objections to the claims and to replace the term "including" with the term "comprising" which is more conventional under US practice.

The term "pivotally" has been deleted from claims 1, 8 and 9 when referring to the mounting of the chair on the carriage. This amendment is made because the manner in which the chair is mounted on the carriage is not essential to the performance of the invention, and the possibility of angle change (which is what the pivot accomplishes) is embodied in the angle determining means of the claims.

Claims 15-19 have been canceled without prejudice. Claim 20 has been added, and corresponds to claim 14, but dependent on claim 5.

Claims 1-8 and 15-19 were rejected as obvious over the combination of Watson (GB 2,339,419) and Jones (GB 2,322,450). Claims 15-19 have been canceled, so only the rejection of claims 1-8 remains for discussion. Claim 1 has been amended to specify that the braking means is an "over-speed braking means" and to further define the function of this over-speed braking means. The Examiner has relied on the Jones reference for a teaching of a brake that is engaged when the angle of a chair is greater than a set value. However, the "brake" referenced in Jones is not identified as an over-speed brake or governor, and there is no suggestion that it should be an over-speed brake.

It is noted that the Examiner has inferred that the term "brake" on page 4 of Jones has something to do with the speed of movement of the chair. Applicants respectfully submit that this inference is not derived from the reference, but rather from the knowledge of the present application. Indeed, the "brake" referred to in Jones is far more likely to be a system that prevents movement of the chair beyond a certain angle, such as the interlock mechanism depicted by reference numerals 23 and 24 in Fig. 1 of the present application and discussed on Page 11, lines 19-22. This is consistent with the fact that Jones is solely concerned with chair angle control, and makes no mention of control of the speed of carriage movement.

Accordingly, the interpretation of the references and the combination of references is based on hindsight, and not on the teaching of the art. This being the case, Applicants submit that rejection of claims 1-8 is in error and should be withdrawn.

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Regarding claim 9, the Examiner appears to rely on the Watson and Jones references applied to claims 1-8, although a specific statement of the rejection is not provided. The Examiner asserts that the method steps would have to be performed to operate the combination of Watson and Jones. As explained above, however, the Jones reference does not actually offer the teaching alleged by the Examiner and therefore this rejection should be withdrawn.

Claim 11 stands rejected as anticipated by US Patent No. 4,904,916 of Gisske et al. Claim 11 has been amended to clarify that the limit stops are mechanical limit stops. The "limit engagement means" recited in the claims is embodied in the current specification by ultimate switch 60, described on Page 15 and in Figs. 3, 7 and 8. The Examiner has not explained how the structure 60 in the Gisske reference is equivalent to the disclosed structure in the present reference, and therefore has failed to present a prima facie case of anticipation. It is noted that Components 60 in Gisske are "stationary infrared transmitter modules" positioned at predetermined locations along the stairway. The components 60 are not shown as a physical or mechanical stop to prevent the carriage being displaced off either end of the rail. Thus, claim 11 is not properly rejected as anticipated.

Furthermore, the Examiner has assumed the existence of a common isolation switch that is not shown but is internal to the controller. The Examiner has not shown that a common isolation switch in fact exists within the disclosure of the reference. Such an assumption has no place within an anticipation rejection, where the reference must teach all of the elements of the invention as claimed. *Ex parte Levy*, 17 USPQ2d 1461, 1464 (BPAI 1990)(In an anticipation rejection, it is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference.) Thus, for this further reason the rejection of claim 11 should be withdrawn.

Claim 12 (dependent on claim 11) stands rejected under 35 USC §103 as obvious over the combination of Gisske and US Patent No. 5,230,405 of Bartlet. This rejection depends on the same flawed understanding of Gisske discussed above, and is in error for the same reasons.

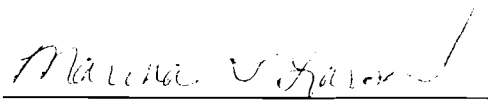
Finally, with respect to claim 10, the Examiner states that the need to test primary components, control units, and their interaction is well known in the art and in quality control. Applicants submit that this assertion cannot be made without a showing of evidentiary support (see *In re Ahlert*, 165 USPQ 418, 420-21 (CCPA 1970)), since a recognition of the need but failure to carry through on it would be evidence of long-felt need, and therefore of non-obviousness, while carrying through in a different manner would also support the patentability of the claim. It is further noted that the Examiner has not identified any disclosure in the cited references that the device of the art includes the ability to simulate an electrical signal indicative of carriage speed and apply said signal to said governor actuation circuit and thereby observe a

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response of said governor. Thus, Applicants submit that the Examiner has failed to present a *prima facie* case of obviousness with respect to claim 10.

For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Marina T. Larson", is written over a horizontal line.

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